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June 27, 2012

Via ECF and Hand Delivery

Honorable Nina Gershon
United States District Judge
United States Courthouse
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: United States v. Joshua Kestenbaum
Criminal Docket No. CR-04-0821 (EDNY)

Dear Judge Gershon:

The United States respectfully submits this letter to provide the information requested at the status conference in the above-referenced matter on June 22, 2012 in connection with the violation of probation ("VOP") hearing scheduled for July 9-11, 2012.

I. The Government's Designations of Deposition Testimony

The United States designates the following excerpts of deposition testimony, which, if satisfactory to the Court, the United States will move into evidence at the VOP hearing:

Transcript of United States' Deposition of Joshua Kestenbaum on March 24, 2010:

pp. 1:1-7:17, 7:20-7:22, 8:4-11:10, 11:22-14:18, 15:3-15:12, 15:21-15:23, 16:5-16:12, 16:19-16:24, 17:2-17:14, 18:4-18:18, 18:21-20:11, 20:24-22:20, 23:14-24:15, 25:3-27:21, 27:25-28:11, 28:16-28:17, 30:8-31:10, 31:19-33:17, 34:9-35:22, 38:11-41:6, 41:11-41:17, 42:16-42:20, 43:16-44:1, 44:18-44:24, 45:20-45:22, 45:25-47:14, 47:17-49:15, 49:22-51:25, 52:5-53:5, 53:13-54:5, 54:21-56:7, 57:4-57:18, 58:1-59:10, 59:19-60:3, 60:6-60:23, 61:4-61:15, 62:12-67:23, 68:5-68:23, 69:1-69:10, 69:21-69:25, 70:10-71:21, 72:1-73:5, 73:9-76:4, 76:11-76:20, 78:5-78:25, 79:16-79:23, 80:25-81:6, 82:1-82:11, 83:14-83:17, 84:15-84:17, 86:11-86:16, 86:23-88:4, 90:5-92:2, 92:20-93:2, 94:7-95:12, 97:7-97:23, 98:13-98:21, 98:25-99:1, 99:22-100:8, 101:12-103:4, 103:18-104:4, 104:7-104:16, 105:4-105:16, 106:11-107:6, 107:13-110:3, 110:8-110:20, 111:5-112:4, 114:20-115:2, 117:22-118:1, 120:23-121:18, 123:1-123:3, 123:20-124:25, 125:10-125:12, 126:21-127:18, 129:19-130:23, 133:21-134:24, 135:3-135:8, 136:2-138:3, 138:21-139:20,

140:10-141:4, 149:13-154:14, 155:19-156:25, 157:13-159:4, 159:10-161:22, 164:3-164:8, 164:19-164:25, 165:1-166:25, 167:2-168:1, 168:24-169:4, 172:3-172:23, 173:25-174:25, 175:9-175:15, 179:8-180:21, 185:9-186:1, 186:9-186:12, and 188:14-188:19.

Transcript of United States' Deposition of Vivian Kestenbaum on August 31, 2010:

pp. 1:1-3:25, 4:10-6:5, 6:17-7:13, 7:16-10:13, 15:17-16:25, 18:3-22:10, 22:17-23:4, 23:12-24:4-24:9, 24:15-24:19, 25:3-25:7, 25:15-26:18, 27:4-34:16, 34:23-35:21, 37:3-37:16, 39:14-41:13, 41:23-45:2, 46:11-48:20, 56:5-56:11, 56:19-57:2, 58:12-58:13, 58:24-59:4, 59:8-59:12, 65:19-65:21, 67:1-68:15, 70:2-70:14, 70:24-74:21, 75:1-75:15, 75:18-75:21 and 79:5-82:10.

Transcript of United States' Deposition of Hannah Kestenbaum on April 27, 2012:

pp. 1:1-8:14, 10:4-13:2, 13:8-14:8, 20:15-24:2, 25:2-26:3, 27:15-28:22, 29:8-30:12, 30:16-31:4, 31:11-31:19, 32:1-32:6, 32:13-32:18, 33:3-33:10, 33:16-34:12, 35:4-35:20, 36:5-36:6, 36:21-37:20, 42:6-43:2, and 43:6-43:7.

Transcript of United States' Deposition of John Robert Lieberman on May 21, 2010:

pp. 1:1-6:3, 7:3-7:7, 9:6- 16:16, 16:24-19:15, 19:19-20:13, 20:18-20:22, 22:12-22:21, 23:19-24:4, 24:7-25:17, 27:22-28:7, 28:13-31:2, 31:11-31:22, 32:7-32:14, 33:2-33:13, 34:6-34:20, 38:13-38:16, 39:1-43:2, 44:3-44:23, 45:16-45:20, 46:22-49:3, 49:13-51:6, 52:5-52:15, 52:18-54:17, 54:23-55:1, 55:14-55:25, 63:11-63:25, 64:4-64:9, 65:17-66:8, 66:12-66:22, 67:8-67:12, and 67:17-72:2.

Transcript of United States' Deposition of Bryce Morrison on June 4, 2010:

pp. 1:1-5:25, 7:10-8:3, 8:24-9:17, 10:21-11:5, 11:19-12:2, 13:21-16:20, 17:1-17:10, 18:1-20:6, 21:22-22:22, 24:12-24:25, 27:11-28:18, 29:3-29:25, 30:10-31:15, 32:2-33:16, 34:9-36:6, 38:17-39:10, 40:9-43:8, 44:15-44:23, 45:6-45:19, 46:23-47:1, 47:12-47:22, and 48:1-49:17

Transcript of United States' Deposition of Joseph Dornoff on May 24, 2010:

pp. 1:1-5:17, 5:20-7:3, 8:11-9:5, 10:8-10:10, 12:19-15:7, 20:7-20:25, 21:7-28:3, 29:18-30:4, 31:2-31:5, 31:20-34:13, 38:2-40:1, 40:4-40:15, 43:1-43:24, 45:25-46:21, 47:5-47:9, 49:14-49:23, 66:4-67:11, 68:8-68:20, 70:25-72:25, 78:8-79:3, 81:10-82:22, and 84:8-85:9.

II. Subpoenas for Mr. Kestenbaum's Cross-Examination of Witnesses

Pursuant to Mr. Kestenbaum's attorney Alan Lewis's request at the June 22, 2012 status conference in the above-referenced matter, the government issued subpoenas for the defendant's cross-examination at the VOP hearing of the above-listed witnesses (other than the defendant)


who were previously deposed by the government. While Mr. Lewis does not represent these witnesses, Mr. Lewis has accepted service of the subpoenas on their behalf.

Of note, since Hannah Kestenbaum has indicated that she is unable to travel (the government took Mrs. Kestenbaum's deposition at her residence in Far Rockaway, Queens), any cross-examination and/or redirect of Mrs. Kestenbaum will need to be conducted by trial deposition at Mrs. Kestenbaum's residence. While it is the government's position that any such deposition should be taken prior to the VOP hearing, Mr. Lewis informed the undersigned by email on June 22, 2012 that he does "not expect to do so before July 6, given [his] request for an adjournment that we will revisit in court on July 2."

The government is prepared to answer any questions by the Court at the next status conference in this matter on July 2, 2012 at 10:00 a.m.

Respectfully submitted,

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